

U.S. Patent Application No. 10/653,520
Amendment dated November 16, 2005
Reply to Office Action of September 21, 2005

REMARKS/ARGUMENTS

Reconsideration and continued examination of the above-identified application are respectfully requested.

In the present application, claims 28-41, 47-55, 57, 58, 60, 61, 63, 64, 66, 67, 69, 70, 72, 73, 75, 76, 78, 79, 81, 82, 84, 85, 87, 88, 90, 91, 93-97, and 113-168 are pending. New claims 167 and 168 have been added by way of this amendment. Claim 38 has been amended to include the subject matter of claim 86. Claims 86, 89, and 92 have been canceled. Claims 87, 88, 90, 91, 93, 94, and 151-156 have been amended. Support for the amendments and claims can be found in the application as originally filed. Accordingly, no new questions of new matter should arise and entry of this amendment is respectfully requested.

At page 2 of the Office Action, the Examiner rejects claims 38, 39, 86-91, and 151-154 under 35 U.S.C. § 102(e) as being anticipated by Shekhter et al. (U.S. Patent No. 6,849,104 B2). The Examiner asserts that Shekhter et al. shows agglomerated particles having an average particle size of 100 nm and refers to col. 8, lines 32-33, and col. 10, lines 63-65. For the following reasons, this rejection is respectfully traversed.

The particular portions of Shekhter et al. relied upon by the Examiner relate specifically to tantalum metal powder achieved by the reduction of tantalum penoxide. In particular, the discussion at col. 8, lines 32-33 is a characterization of the previous examples in Shekhter et al. as discussed in that paragraph at col. 8, lines 15-30. Examples 1-9 clearly relate to tantalum metal powder as, for instance, shown in col. 7, lines 21-25. None of Examples 1-9 relate to the formation of an oxygen-reduced niobium oxide or any sub-oxide. The only example set forth in Shekhter et al. which provides a specific discussion of a niobium oxide is Example 16, as referenced by the Examiner. However, Example 16 does not teach or suggest any agglomeration of NbO and further

U.S. Patent Application No. 10/653,520
Amendment dated November 16, 2005
Reply to Office Action of September 21, 2005

does not provide any agglomerated particle sizes for the NbO. The examples regarding the formation of tantalum metal and not a tantalum oxide cannot apply automatically to the formation of NbO in a totally different example in Shekhter et al. Accordingly, Shekhter et al. does not teach or suggest the type of powders set forth and claimed in claim 38 and the claims dependent thereon. For these reasons, Shekhter et al. does not teach or suggest the claimed invention.

Also at page 2 of the Office Action, the Examiner indicates that claims 28-37, 52-58, 60-61, 63-64, 66-67, 69-70, 72-73, 75-76, 78-79, 81-82, 84-85, 113-150, and 159-166 are allowable and that claims 92-97 and 155-158 are objected to. The applicants note that the Examiner has not addressed the patentability of claims 41 and 47-51. Clarification is respectfully requested. Furthermore, in the list of allowable claims in section 3 of the Office Action, the applicants note that claim 56 is canceled and, therefore, should not be included in section 3 of the Office Action as an allowable claim.

The applicants believe that claims 41 and 47-51 are allowable based on the arguments previously provided.

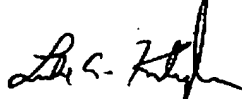
CONCLUSION

In view of the foregoing remarks, the applicant respectfully requests the reconsideration of this application and the timely allowance of the pending claims.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 03-0060. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

U.S. Patent Application No. 10/653,520
Amendment dated November 16, 2005
Reply to Office Action of September 21, 2005

Respectfully submitted,



Luke A. Kilyk
Reg. No. 33,251

Atty. Docket No. 00138CIPCON (3600-360-01)
KILYK & BOWERSOX, P.L.L.C.
400 Holiday Court, Suite 102
Warrenton, VA 20186
Tel.: (540) 428-1701
Fax: (540) 428-1720